IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.273 OF 2007

IN

WRIT PETITION NO.779 OF 2007

Snehal Shivalkar & Ors. .. Petitioners.

Versus

Elegant Industries Pvt. Ltd. .. Respondents.

Mr.M.D.Nagle for petitioners.

Mr.A.D.Shetty & Ms.Rita Joshi for original respondent No.1.

Mr.D.B.Brahmbhatt i/b.Thakordas & Madg. for respondent No.6.

Proposed respondent No.4 is present in person.

Mr.S.U.Uttam & Tanu Mehta i/b.Mulla & Mulla for proposed respondent Nos.1,5 and 7.

Ms.Rita Panjwani for proposed respondent Nos.2 and 3.

CORAM : A.M.KHANWILKAR, J.

DATE : 27th November, 2007.

P.C.:

1. As rightly pointed out by the Counsel appearing for respondent No.1, the present Chamber Summons is ill advised; as the proceedings against respondent Nos.2 and 3, in particular, had abated during the pendency of proceedings before the lower Court, which fact has been noted by the lower Court as is seen from page 141 as well as the penultimate paragraph of the impugned order (paragraph 15) at page 162. No steps have been taken by the petitioners to challenge the said order passed by the lower Court, observing that the complaint has abated as against respondent No.3. As the said order operates and has been allowed to attain finality, it is not open for this Court to permit the petitioners to bring on record heirs of respondent No.3 against whom the original complaint has already been abated. Hence, this Chamber Summons is disposed of.

2. Needless to observe that dismissal of this Chamber Summons will not preclude the petitioners from taking such recourse or remedy as is permissible in law, which will be decided on its own merits and in accordance with law.

(A.M.KHANWILKAR, J.)